

IFW DAC ✓

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Benjamin et al.

Examiner: Not Yet Assigned

Serial No.: 10/827,135

Group Art Unit: 2853

Filed: 04/19/2004

Docket No. 200309237-1

Title: Fluid Ejection Device With Identification Cells



**PETITION TO ACCORD ORIGINAL FILING DATE**  
**TO FIGURE 11 (37 CFR 1.182)**

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

In response to the Notice of Omitted Item In A Non-Provisional Application (Exhibit A), Applicants respectfully petition the Commissioner to accord Figure 11 a filing date of April 19, 2004, which is the date on which the above referenced application was submitted by Express Mail addressed to the United States Patent And Trademark Office.

In a Notice of Omitted Item In A Non-Provisional Application mailed on July 30, 2004, it was asserted that Figure 11 was omitted from the above referenced application as originally filed on April 19, 2004.

Applicants respectfully submit that the above referenced Figure 11 was included as part of the documents submitted on April 19, 2004 via Express Mail utilizing Express Mail No. EL668620851US. Included therein were the following:

- (i) A patent application included 34 pages of specification, 12 pages of claims, and 1 page of abstract;
- (ii) A transmittal sheet with a certification of mailing;
- (iii) 9 sheets of drawings;
- (iv) power of attorney;
- (v) declaration; and
- (vi) assignment and coversheet. (Return Stamped Postcard, attached hereto as Exhibit B).

Figure 11 was included on page 9 of the Figures, where Figures 1-10 were included on pages 1-8 of the figures. (Drawing Sheets 1-9, attached hereto as Exhibit C).

As a postcard that itemizes 9 pages of drawings was stamped by the USPTO (Exhibit B), Applicants respectfully submit that this is prima facie evidence of receipt in the USPTO

**Petition to Accord Original Filing Date**

Applicant: Benjamin et al.

Filed 04/19/04

Docket No.: 200309237-1

Title: Fluid Ejection Device With Identification Cells

---

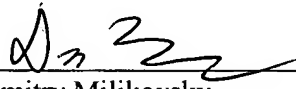
of all the items, including Figure 11 which is one of 9 pages of drawings submitted with the application on April 19, 2004.

Further, MPEP 513 states that "where the records of the Office (e.g., the file of the application) contain any document(s) or fee(s) corresponding to the contents of the correspondence at issue, the Office will rely upon its official record of the contents of such correspondence *in absence of convincing evidence (e.g., a postcard receipt under MPEP § 503 containing specific itemization of the document(s) or fee(s) purported to have been filed with the correspondence at issue)*." (Emphasis added). Therefore, the stamped postcard showing that the Office received "9 sheets of drawings" is conclusive evidence that Figure 11, which was on page 9, was received by the Office on April 19, 2004.

Applicants therefore request that the Notice of Omitted Item In A Non-Provisional Application be withdrawn and all of the application documents, including Figure 11, be accorded the April 19, 2004 date of submission under 37 CFR 1.10. Please charge the petition fee of \$130.00 pursuant to 37 CFR 1.17(h) to Deposit Account 08-2025. At any time during the pendency of this application, please charge any fees required or credit any overpayments to Deposit Account 08-2025.

Respectfully submitted,  
Benjamin et al.,

Date: 8/11/04

  
Dmitry Milikovsky  
Reg. No. 41,999

**Hewlett-Packard Company**  
Intellectual Property Administration  
P.O. Box 272400  
Fort Collins, Colorado 80527-2400

I hereby certify that this paper is being deposited with the United States Postal Service in an envelope addressed to Commissioner for Patents, Mail Stop Petition, P.O. Box 1450, Alexandria VA 22313-1450 on 8/11/04

~~Number of pages~~

Typed Name: Ann Lygas

Signature: 

IN THE  
UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Trudy L. Benjamin et al

Confirmation No.: 2301

Application No.: 10/827135

Examiner: Not Yet Assigned

Filing Date: Apr 19, 2004

Group Art Unit: 2853

Title: Fluid Ejection Device With Identification Cells

Mail Stop Petition  
Commissioner of Patents  
PO Box 1450  
Alexandria, VA 22313-1450

TRANSMITTAL LETTER FOR RESPONSE/AMENDMENT

Sir:

Transmitted herewith is/are the following in the above-identified application:

- ( ) Response/Amendment ( ) Petition to extend time to respond  
( ) New fee as calculated below ( ) Supplemental Declaration  
( ) No additional fee  
(X) Other: Petition To Accord Original Filing Date + 3 exhibits (fee \$ 130.00 )

CLAIMS AS AMENDED BY OTHER THAN A SMALL ENTITY						
(1) FOR	(2) CLAIMS REMAINING AFTER AMENDMENT	(3) NUMBER EXTRA	(4) HIGHEST NUMBER PREVIOUSLY PAID FOR	(5) PRESENT EXTRA	(6) RATE	(7) ADDITIONAL FEES
TOTAL CLAIMS		MINUS		= 0	X \$18	\$ 0
INDEP. CLAIMS		MINUS		= 0	X \$86	\$ 0
[ ] FIRST PRESENTATION OF A MULTIPLE DEPENDENT CLAIM					+ \$280	\$ 0
EXTENSION FEE	1ST MONTH \$110.00	2ND MONTH \$420.00	3RD MONTH \$950.00	4TH MONTH \$1480.00		\$ 0
OTHER FEES						\$ 130
TOTAL ADDITIONAL FEE FOR THIS AMENDMENT						\$ 130

Charge \$ 130 to Deposit Account 08-2025. At any time during the pendency of this application, please charge any fees required or credit any overpayment to Deposit Account 08-2025 pursuant to 37 CFR 1.25. Additionally please charge any fees to Deposit Account 08-2025 under 37 CFR 1.16 through 1.21 inclusive, and any other sections in Title 37 of the Code of Federal Regulations that may regulate fees. A duplicate copy of this sheet is enclosed.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, Alexandria, VA 22313-1450.

Number of pages 19

Date of Deposit: 8/11/04

Typed Name: Ann Lygas

Signature: Ann Lygas

Respectfully submitted,

Trudy L. Benjamin et al

By Dmitry R. M. Ilikovsky

Dmitry R. M. Ilikovsky

Attorney/Agent for Applicant(s)  
Reg. No. 41999

Date: 8/11/04

Telephone No.: (858) 655-3251



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
 United States Patent and Trademark Office  
 Address: COMMISSIONER FOR PATENTS  
 P.O. Box 1450  
 Alexandria, Virginia 22313-1450  
 www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/827,135	04/19/2004	Trudy L. Benjamin	200309237-1

HEWLETT-PACKARD COMPANY  
 Intellectual Property Administration  
 P.O. Box 272400  
 Fort Collins, CO 80527-2400



CONFIRMATION NO. 2301

## FORMALITIES LETTER

\*OC000000013384460\*

Date Mailed: 07/30/2004

## NOTICE OF OMITTED ITEM(S) IN A NONPROVISIONAL APPLICATION

## FILED UNDER 37 CFR 1.53(b)

A filing date has been accorded to the above-identified nonprovisional application papers; however, the following item(s) appear to have been omitted from the application:

- Figure(s) 11 described in the specification.

I. Should applicant contend that the above-noted omitted item(s) was in fact deposited in the U.S. Patent and Trademark Office (USPTO) with the nonprovisional application papers, a copy of this Notice and a petition (and \$130.00 petition fee (37 CFR 1.17(h))) with evidence of such deposit **must** be filed within **TWO MONTHS** of the date of this Notice. The petition fee will be refunded if it is determined that the item(s) was received by the USPTO.

II. Should applicant desire to supply the omitted item(s) and accept the date that such omitted item(s) was filed in the USPTO as the filing date of the above-identified application, a copy of this Notice, the omitted item(s) (with a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items), and a petition under 37 CFR 1.182 (with the \$130.00 petition fee (37 CFR 1.17(h))) requesting the later filing date **must** be filed within **TWO MONTHS** of the date of this Notice.

Applicant is advised that generally the filing fee required for an application is the filing fee in effect on the filing date accorded the application and that payment of the requisite basic filing fee on a date later than the filing date of the application requires payment of a surcharge (37 CFR 1.16(e)). To avoid processing delays and payment of a surcharge, applicant should submit any balance due for the requisite filing fee based on the later filing date being requested when submitting the omitted items(s) and the petition (and petition fee) requesting the later filing date.

III. The failure to file a petition (and petition fee) under the above options (I) or (II) within **TWO MONTHS** of the date of this Notice (37 CFR 1.181(f)) will be treated as a constructive acceptance by the applicant of the application as deposited in the USPTO. **THIS TWO MONTH PERIOD IS NOT EXTENDABLE UNDER 37 CFR 1.136(a) or (b).** In the absence of a timely filed petition in reply to this Notice, the application will maintain a filing date as of the date of deposit of the application papers in the USPTO, and original application papers (i.e., the original disclosure of the invention) will include only those application papers present in the USPTO on the date of deposit.

In the event that applicant elects not to take action pursuant to options (I) or (II) above (thereby constructively electing option (III)), amendment of the specification to renumber the pages consecutively and cancel incomplete sentences caused by any omitted page(s), and/or amendment of the specification to cancel all references to any omitted drawing(s), relabel the drawing figures to be numbered consecutively (if necessary), and correct the

references in the specification to the drawing figures to correspond with any relabeled drawing figures, is required. A copy of the drawing figures showing the proposed changes in red ink should accompany with any drawing changes. Such amendment and/or correction to the drawing figures, if necessary, should be by way of preliminary amendment submitted prior to the first Office action to avoid delays in the prosecution of the application.

Replies should be mailed to: Mail Stop Missing Parts  
Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450

---

*A copy of this notice **MUST** be returned with the reply.*

T. Ketsala  
Customer Service Center  
Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

Ser/Pat. No. <u>Not Yet Assigned</u> Filing Date <u>4/19/04</u>	
Title <u>Fluid Ejection Device</u>	Applicant(s) <u>Benjamin et al</u>
<input checked="" type="checkbox"/> Patent Application w/ <u>34</u> pp. Spec., <u>12</u> pp. Claims, <u>1</u> page Abstract <input checked="" type="checkbox"/> Transmittal Letter w/Cert Of Mailing <input checked="" type="checkbox"/> <u>9</u> Sheets of Drawings <input checked="" type="checkbox"/> Power of Attorney <input checked="" type="checkbox"/> Oath or Declaration <input type="checkbox"/> Response to Missing Parts <input checked="" type="checkbox"/> Assignment w/Coversheet <input type="checkbox"/> Info. Disclosure Stmt & Form 1449 <input type="checkbox"/> Response/Amendment	<input type="checkbox"/> Letter to Official Draftsman <input type="checkbox"/> Letter of Correction <input type="checkbox"/> Issue Fee Transmittal <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Extension of Time <input type="checkbox"/> Reissue App./ Reexam Request <input type="checkbox"/> Petition <input type="checkbox"/> Notice of Appeal <u>10/827135</u> <input type="checkbox"/> Other: <u>[REDACTED]</u>
Marked items filed with the U.S. Patent & Trademark Office on: <u>4/19/04</u>	
<input checked="" type="checkbox"/> U.S. Express Mail No. <u>EL66862851 US</u> <input type="checkbox"/> U.S. First Class Mail	
THE OFFICIAL U.S. P.T.O. MAIL ROOM STAMP AFFIXED HERETO ACKNOWLEDGES RECEIPT OF THE ITEMS CHECKED	
Any Order No. <u>2005082202-1</u>	